

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 3819 of 2005

Between:

- 1 The General Manager, South Central Railway,
Rail Nilayam, Secunderabad.
- 2 The Chief Personnel Officer, South Central Railway,
Rail Nilayam, Secunderabad.
- 3 The Chief Workshops Manager, Carriage Workshops,
Lallaguda, Secunderabad.

..... PETITIONERS

AND

Laxmi Bai, Junior Stenographer, CSM/O/LGDS,
Secunderabad Division, South Central Railway, Secunderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Certiorari setting aside the order of the Central Administrative Tribunal, Hyderabad Bench dt. 10-12-2004 in O.A.No. 618/2004 and pass such order or other orders in the circumstances of the case.

Counsel for the Petitioners: MR.S.S.VARMA

Counsel for the Respondent: MR.P.KRISHNA REDDY.

The Court made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed by the South Central Railway challenging the order, dated 10.12.2004, passed by the Central Administrative Tribunal, Hyderabad Bench, in O.A.No.618 of 2004.

2. The respondent was appointed as Junior Stenographer on 22.11.1995 on compassionate appointment on the medical invalidation of her mother Smt. Lingamma. The respondent was adopted as a daughter on 04.11.1992 under a registered adoption deed. Further, after a lapse of 7 years, a charge memo was issued on 15.04.2002 to the effect that she obtained the appointment by suppressing the material facts. Thereafter, enquiry was conducted and ultimately the disciplinary authority passed the punishment order, dated 17.02.2003, reducing the pay from Rs.4,700/- to Rs.4,500/- in the time scale of pay of Rs.4,000-6,000/- for a period of four years with cumulative effect. Against the said order, the respondent preferred an appeal and the appellate authority modified the order, dated 17.02.2003, by enhancing the penalty already awarded to a period of 5 years instead of 4 years by order, dated 14/16.06.2003. But, however in the suo motu revision the Chief Works Manager by exercising his revisional power, set aside the order of punishment imposed by the lower authorities and imposed the punishment of removal from service by an order dated 20.05.2004. The said order came to be challenged by the respondent in O.A.No.618 of 2004.

3. The learned Tribunal, after considering the matter, allowed the O.A. holding that unless the adoption deed is cancelled by a competent court or authority, it is not

justified by the revisional authority to impose such a harsh punishment on the respondent and found that there was long delay in initiating the disciplinary proceedings itself, nearly seven years after appointment. Under those circumstances, set aside the order of dismissal and directed the respondents to reinstate the applicant confirming the order of penalty, dated 14/16.06.2003, imposed by the appellate authority, against which the present Writ Petition has been filed.

4. Learned standing counsel for the Central Government submits that the order is not sustainable inasmuch as the document i.e., adoption deed was produced only to get an employment under the Medical Invalidation Scheme, and therefore, the Tribunal ought to have considered this matter and dismissed the O.A.

5. We have heard the learned counsel for the respondent also.

The Tribunal has considered this matter in Para Nos.12 to 15 of its order, which are extracted below:

“12. Besides, it is borne from the records that there is a valid selection of the applicant by due process by the competent authority who had scrutinized the adoption deed and given her appointment. Nobody has taken any steps to set aside the adoption deed. There is any rebuttal presumption to invalidate the deed so as to disbelieve it. The mere fact that such a deed may cause certain shadow of suspicion, does not replace by any concrete evidence. So long as the registered deed is in existence which was relied on and acted upon by the respondents themselves, we are of the view that it will put great hardship on the part of the applicant if not acted upon and, therefore, the legal and also procedural action of the revisional authority is not justified in giving capital punishment of removal from service. It is an admitted fact that the applicant has put the entire case before the respondents in the selection process and the authority has scrutinized the same and appointment was given on the strength of the said registered document.

13. Having accepted the adoption deed by a regularly constituted selection committee and the said document is still good and valid for all purposes, we are of the considered view that unless the document is cancelled by a competent court or authority, it is not justified by the revisional authority after a spell of seven years of employment that the said document is tainted, especially when the respondents had admitted that the applicant has not made any fraudulent attempt to obtain the job. A mere vigilance report cannot be a reason for imposing such harsh punishment on the applicant. Therefore,

we have no hesitation in setting aside the revision order dated 19.5.2004 (A-1).

14. Registry will send a copy of this order to the Secretary, Railway Board, to take precautions in such selections in future and give instructions, if any, to the concerned Railways and make rules and regulations on the subject to prevent such mishaps at the selection point itself.

15. In the conspectus facts and circumstances, we set aside the impugned order dated 19.5.2004 and direct the respondents to reinstate the applicant forthwith retaining the earlier penalty issued by the appellate authority and pass appropriate orders, in any case, within 45 days of receipt of a copy of this order. However, we make it clear that the applicant will not be entitled to any actual arrears but the benefit on notional basis. The breaks in period may be regularized with the leave, if any, due to her credit, if not, without pay. She will not be entitled for any actual arrears”.

6. The revisional authority also had not followed the procedure specified in Rule 25(1)(a) of Railway Servants (Discipline & Appeal) Rules, 1968. Having considered the aforesaid findings of the Tribunal and also the submissions made by both the learned counsel, we do not find any ground to interfere with the order passed by the Tribunal and accordingly, the Writ Petition is dismissed. No costs.

G. BIKSHAPATHY, J

P.S. NARAYANA, J

Date: 18.03.2005

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To

- 1 The General Manager, South Central Railway,
Rail Nilayam, Secunderabad.
- 2 The Chief Personnel Officer, South Central Railway,
Rail Nilayam, Secunderabad.
- 3 The Chief Workshops Manager, Carriage Workshops,
Lallaguda, Secunderabad.
- 4 2 CD copies.
- 5 The Secretary, Railway Board, South Central Railway, Secunderabad.